

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

- - - - -
JEFFREY DENTON, et al., :
:
Plaintiffs, :
vs. : Case No. C-1-02-422
: Consolidated with
COLUMBIA OLDSMOBILE, INC., : Case No. C-1-02-466
et al., : (Volume I)
:
Defendants. :
:
- - - - -

Deposition of ROBERT BRAUTIGAM, a
defendant herein, called by the plaintiffs for
cross-examination, pursuant to the Federal Rules of
Civil Procedure, taken before me, Connie Dupps, a
Registered Professional Reporter and Notary Public
in and for the State of Ohio, at the offices of
Lindhorst & Dreidame, 2300 Scripps Center, 312
Walnut Street, Cincinnati, Ohio, on Thursday, May 1,
2003, at 10:30 AM.

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1 Q. Okay.

2 A. And depending on what dispatch determines
3 what that time frame or time period is or should be.4 Q. So the repair tech or whoever is doing the
5 work fills it out, what they've done, and then they
6 take that when they're finished, what do they do
7 with that, this repair order, where does it go?

8 A. Turn it back into the dispatcher.

9 Q. What happens then?

10 A. If there is other jobs on it he puts it up
11 on the rack to be dispatched to another
12 classification. If the job, if the car, is
13 completed and the repairs are finalized and
14 completed, he gives it back to the service advisor,
15 they bill the ticket and call the customer.16 Q. And when do you become involved in that
17 situation, if there's a problem would you become
18 involved?19 A. Depending on the circumstance at any point
20 in time.21 Q. Well, I mean, the dispatcher can call you,
22 serviceman, the repair person, anybody can call you,
23 but if you don't get a call you're probably thinking
24 it's going pretty smooth?

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1 A. Exactly.

2 Q. And then anybody can call you to get
3 involved and then you try to take care of the
4 problem?

5 A. Exactly.

6 Q. And when Jeff Denton started working
7 there, what was his classification?

8 A. He was hired as a maintenance tech.

9 Q. What's that mean?

10 A. Just working on the lube rack.

11 Q. Did you hire him?

12 A. Yes, I did.

13 Q. Did you talk to him when you hired him?

14 A. Yes, I did.

15 Q. Was anybody else present when you hired
16 him?

17 A. I don't believe there was.

18 Q. Did you take any notes of the conversation
19 you had with him when you hired him?

20 A. I don't recall taking any notes.

21 Q. Do you recall the conversation between you
22 and Mr. Denton when you hired him?

23 A. To an extent.

24 Q. Okay. Tell me what your best memory is as

1 to what you said to him and he said to you.

2 A. Initially he came from our sister store
3 because he was going to be released from our sister
4 store for the job classification that he was hired
5 at that store. They had asked me if I had any
6 openings and at the point in time I did have for the
7 lube rack.8 Interviewed him for that position and for
9 the salary, asked him about his driver's license,
10 because we run his driver's license, verify records
11 for our insurance company, and then agreed on the
12 date for him to come to work.

13 Q. Anything else you remember?

14 A. No.

15 Q. Do you remember where the conversation
16 took place?

17 A. In my office.

18 Q. And who did you talk to at the sister
19 store that told you that they were releasing Jeff?

20 A. Greg Volz.

21 Q. Did you confirm anything in writing with
22 Mr. Denton when he was hired as to what position he
23 did?

24 A. With his application and with his payroll

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1 either Mr. Peters or Mr. Stewart?	1 A. Anything outside of the realm of his
2 A. No.	2 classification.
3 Q. Did you have a right to fire people as	3 Q. And it's your testimony he wasn't assigned
4 well?	4 any of the responsibilities other than basically
5 A. I did.	5 what you testified to?
6 Q. And those terminations, did they have to	6 A. Right.
7 be approved by anyone before they were terminated?	7 Q. Is there a difference in pay between a
8 A. No.	8 lube tech and service tech generally?
9 Q. Did you review Jeff Denton's application	9 A. There's a wide spectrum of difference in
10 that he had given to Greg Volz before you hired him?	10 pay. You can be a service technician also and be
11 A. I did not.	11 paid at a different rate, at a lower classification,
12 Q. Did he?	12 than what a master technician is.
13 A. I spoke to Greg Volz about the situation	13 Q. So the pay that people got that you
14 for him coming to work -- or wanting to come to work	14 supervise was not based on position, it was based on
15 up at our store.	15 maybe seniority, how they did, and that type of
16 Q. Did you have him fill out a new	16 thing, it varied, is that what you're saying?
17 application, Mr. Denton, when you hired him?	17 A. Based on classification, negotiated
18 A. I can't recall.	18 salary, flat rate, and it was based on what their
19 Q. Did Mr. Denton tell you, tell you,	19 expertise, their experience, and their education
20 anything that was untrue, you found out later was	20 was.
21 untrue at the time that you hired him?	21 Q. Okay. And I assume their performance as
22 A. I don't believe so.	22 well because they got raises if they were good?
23 MR. TAMARKIN: Let's take a couple	23 A. Exactly.
24 minutes.	24 Q. Do you know -- excuse me. Was the people
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1 (Brief recess.)	1 getting paid an hourly rate no matter how much work
2 (Mr. Tucker and Mr. Denton left the room.)	2 they did or were they paid by how much work they
3 MR. TAMARKIN: Okay. Let's go back on the	3 did?
4 record. Can you read back the last question.	4 A. It depends on what their negotiated
5 (The record was read back by the court reporter.)	5 classification was.
6 Q. Did Mr. Denton during his employment do	6 Q. Jeff Denton, how was he paid?
7 any work which was beyond his classification as a	7 A. He was paid on a flat rate basis as well
8 lube tech?	8 as a clock hour basis.
9 A. No.	9 Q. You better explain that to me because I
10 Q. Can you -- was there a written description	10 don't understand it.
11 for a lube tech that you're aware of?	11 A. Flat rate technician, if you do an oil and
12 A. No.	12 filter change, it pays three-tenths of an hour labor
13 Q. Can you tell me what the responsibilities	13 in order to perform that duty, which is
14 are of a lube tech?	14 approximately 18 minutes. And if he does it in 12,
15 A. The bases go from an oil and filter	15 he still gets paid three-tenths of an hour. If he
16 change, which would consist of topping off fluid	16 does it in 24 minutes, he still gets paid
17 levels, adjusting tire pressures, routine	17 three-tenths of an hour.
18 inspections, lubing hinges, things like that, lubing	18 And if indeed we were slow at a period of
19 the chassis to a minor service interval which also	19 time where the volume of business had dropped off
20 entails rotating the tires and performing brake	20 because of weather, because of the time of year, at
21 inspections.	21 that point I also had him on a clock hour pay also,
22 Q. What type of things -- what wouldn't he be	22 which was, I believe, \$8.50 an hour. So if he was
23 able to do in his category that a service tech would	23 slow and he only turned 20 flag hours in a week's
24 do, numerous I guess?	24 time, the balance of those hours that he was there

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1 on the job on his clock hours, the balance of those 2 hours, I paid him \$8.50 an hour.	1 A. The same basis, same formula, yes.
3 Q. Were other employees paid that way as well 4 that you supervised?	2 Q. Is Cedric still there?
5 A. Usually apprentice technicians.	3 A. Yes, he is.
6 Q. Was Jeff Denton considered an apprentice 7 technician?	4 Q. And did you hire Cedric Rosier?
8 A. No, but his job classification had -- it 9 was one of those jobs where it could have its ups 10 and downs as far as volume of business, and at that 11 point we give our maintenance lube technicians 12 something to fall back on.	5 A. Yes, I did.
13 In other words, I don't want them there 14 working 40 to 44 hours a week if they only turn 20 15 flag hours. Some of my technicians only get the 16 flag hours they turn, but the maintenance lube 17 technicians get paid the balance of their clock 18 hours less their flag hours.	6 Q. Did you advertise for a position for lube 7 tech after Mr. Denton was separated?
19 Q. Okay. Were there --	8 A. I can't recall if we advertised or if he 9 was referred to us. I don't recall offhand.
20 A. And the apprentices.	10 Q. Did you interview other people besides 11 Mr. Rosier for that position?
21 Q. Were there other lube technicians that 22 would work at the same time as Jeff Denton?	12 A. I don't recall offhand.
23 A. Al Parker.	13 Q. At the time that Mr. Denton was working 14 there, the other people that you supervise that 15 actually did work on cars, what were -- were they 16 paid different ways, all those different people, 17 like different people are paid different ways 18 depending on what they negotiated with you?
24 Q. Al Parker is an African-American?	19 A. And their job classification, yes.
	20 Q. Okay. Let's just take somebody, Jeff 21 Watts, let's just use his name for example, okay, 22 Jeff Watts' classification was a service tech?
	23 A. Yes.
	24 Q. Okay.
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1 A. Yes, he was.	1 A. He was a drivability technician.
2 Q. Was Al Parker paid the same rate as 3 Mr. Denton at the same time?	2 Q. And was he paid differently than 3 Mr. Denton?
4 A. Al was part-time when Jeffrey came in. He 5 was paid flat rate.	4 A. Yes.
6 Q. Hourly rate no matter what he did?	5 Q. How was he paid?
7 A. Flat rate hours, yes, no matter what he 8 did, but he was part-time. He worked until 1:00 9 p.m. in the afternoon.	6 A. Flat rate.
10 Q. Were there any Caucasian lube technicians 11 at the time Jeffrey was there?	7 Q. Okay. And what about Scott Dick, how was 8 he paid?
12 A. At the time Jeffrey was there, no.	9 A. He was paid flat rate also. Scott Dick
13 Q. And who replaced Jeffrey as a lube 14 technician after he was separated?	10 did have a guarantee though, it was like -- it was
15 A. Cedric Rosier, R O S I E R.	11 different. Instead of clock hours he actually had a
16 Q. Okay. Is Cedric Rosier an 17 African-American?	12 guarantee because he's an automatic transmission
18 A. Yes, he was.	13 specialist.
19 Q. How is he paid?	14 Q. And what about Mark Fry, how was he paid?
20 A. He's paid flat rate and clock hours.	15 A. He was flat rate.
21 Q. Same as Jeff?	16 Q. What other employees were paid similar to 17 Mr. Denton, if you can tell me, that worked at the
22 A. Yes, at a different rate.	18 same time he did?
23 Q. At a different rate, okay, but same 24 formula?	19 A. Paid on a similar pay plan, the same type 20 of formula?
	21 Q. Yes, the same type of formula.
	22 A. I know I had to have apprentices there at 23 the point in time.
	24 Q. But you don't know who they are?

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1 A. I can't recall who they would have been.	1 Mr. Denton's EEOC charge?
2 Q. Besides apprentices what other people who	2 A. Not that I'm aware of.
3 were not apprentices were paid in the same way as	3 Q. And how was Andre Tucker paid when he was
4 Mr. Denton and Mr. Parker were?	4 hired?
5 (Mr. Denton and Mr. Tucker entered the room.)	5 A. Hourly.
6 A. In the same formula, none.	6 Q. Were there any car lot people or -- well,
7 Q. Okay. Were there other employees that	7 let me ask you this. What was his job when he was
8 worked there at the same time as Mr. Denton who were	8 hired?
9 not paid a flat rate?	9 A. He was to wash the service cars, customer
10 A. Technicians or employees?	10 service cars.
11 Q. Technicians, people that you supervised.	11 Q. And did you hire him?
12 A. There were technicians that were paid flat	12 A. Yes, I did.
13 rate that also had a guarantee.	13 Q. Did you have a conversation with him when
14 Q. Okay. Besides them that were not paid a	14 you hired him?
15 flat rate?	15 A. Yes, I did.
16 A. No.	16 Q. Do you recall that conversation?
17 Q. And were any of those African-Americans?	17 A. Not right offhand.
18 A. No, there were not.	18 Q. Do you recall what job he applied for?
19 Q. Were there any other African-Americans	19 A. For the service car wash.
20 that you supervised when Mr. Denton was there other	20 Q. Do you recall him telling you that he was
21 than Mr. Tucker, Mr. Denton, and Mr. Parker?	21 applying for a lube tech position?
22 A. When Jeffrey was there, no.	22 A. No.
23 Q. And when you interviewed Mr. Rosier, is	23 Q. Did Mr. Tucker fill out an application
24 it, for the job after Mr. Denton left?	24 when he started working for you?
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1 A. (Nodding head.)	1 A. I'm sure he did.
2 Q. Did you inform him at that point that	2 Q. Did you review the application probably; I
3 Mr. Denton had filed an EEOC charge at that time?	3 mean, is that your normal procedure when you
4 A. I did not.	4 interviewed him?
5 Q. Do you know if anybody informed him that	5 A. Would be, yes.
6 there was an EEOC claim pending?	6 Q. Did he interview with anybody else besides
7 A. I don't know for a fact that I was aware	7 you?
8 of the fact that he had filed an EEOC claim at that	8 A. No, he did not.
9 point in time.	9 Q. And did you know at the time that he was
10 Q. Nobody -- you can't say one way or another	10 related to Mr. Denton?
11 whether anybody notified you there had been a charge	11 A. He was referred by Mr. Denton.
12 filed?	12 Q. While Mr. Denton was employed by Columbia
13 A. I can't say.	13 Oldsmobile did you ever hear anybody make any racial
14 Q. Is it your testimony that you weren't	14 slurs?
15 aware of Mr. Denton's first charge of discrimination	15 A. No.
16 that he filed with regard to the, you know, the	16 Q. Never heard Mark Fry, Scott Dick, Jeff
17 issue regarding carbon monoxide and him in the room?	17 Watts make any racial slurs?
18 A. With the EEOC?	18 A. No.
19 Q. Yes.	19 Q. Did -- tell me the atmosphere at the --
20 A. At the point in time I hired Cedric	20 where you supervised with regard to playing
21 Rosier, no, that's the time frame you're asking.	21 practical jokes on one another at the time that
22 Q. So Mr. Stewart, nor Mr. Peters, nor	22 Mr. Denton worked there?
23 Mr. Langenbahn, or anybody else hadn't talked to you	23 A. They were brought to my attention.
24 at that point when you hired Mr. Rosier about	24 Practical jokes were something that just about

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1 third sentence down in the second paragraph, and
 2 read through that and then I want to ask you some
 3 questions about it. Have you had a chance to review
 4 that paragraph?

5 A. Um-hmm.

6 Q. Okay. Is that an accurate description of
 7 what happened on or about February 22nd with regard
 8 to the ventilation system?

9 A. No.

10 Q. Okay. Tell me your version, what you
 11 understand happened.

12 A. I was over in our Acura store the majority
 13 of the day, and it was late in the afternoon, and
 14 when I had come back over to the other store I had
 15 come in there and Linda Honican came out and told me
 16 that Jeffrey was in the break room and was sick from
 17 his stomach.

18 And she told me Mark Fry and Jeff Watts
 19 had taken a hose and put it over in the break room,
 20 started a car up and filled it, the break room, up
 21 with smoke and Jeff had come running out.

22 He was already sick from his stomach, and
 23 she had him in the cashier's office trying to get
 24 him to feel better, find out, you know, what kind of

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1 meeting with them. Told them there was going to be
 2 a disciplinary action, at that point in time we
 3 didn't know to what extent, and that Mr. Peters was
 4 going to talk it over with Mr. Stewart and we would
 5 let them know at that point what the disciplinary
 6 action was going to be.

7 Q. And when you approached Mark Fry and Jeff
 8 Watts about this on the day that it occurred, what
 9 did they tell you?

10 A. The time line, I'm not 100 percent sure
 11 that I talked to them that night, it was late in the
 12 day when it happened, and I don't know for a fact
 13 that Jeff Watts and Mark Fry were still there. And
 14 the following morning is when Jim Peters and myself
 15 talked to them.

16 Q. Okay. So it's a little blurry, you're
 17 telling me you could have talked to them that day,
 18 but you don't have a --

19 A. I can't remember. I know it was late in
 20 the afternoon, but how late that afternoon I don't
 21 know. I believe that they were still there. I
 22 believe that they were still there because I was
 23 pretty mad, went back and asked them what the hell
 24 they thought they were doing.

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1 shape he was in and that. And I went in and I
 2 talked to him and asked him what had happened, asked
 3 him if he needed to go home, told him to go ahead
 4 and go home, he was sick.

5 And then at that point I went out and
 6 talked to Mark Fry and Jeff Watts and asked them
 7 what the hell they thought they were doing, and that
 8 was based off of conversation from Linda Honican who
 9 was our cashier at that time.

10 Q. Anything else that you did that day with
 11 regard to this incident?

12 A. Took it to Jim Peters and told him that we
 13 had a major incident, that was something that we
 14 needed to discipline Mark Fry and Jeff Watts over,
 15 and wanted to know what he thought we should do.

16 Q. What did Mr. Peters say?

17 A. He said -- well, at that point in time I
 18 believe they were both gone because I don't think
 19 Jim was at our store that day, when he got back it
 20 was late, it was after 5:00. I told him about it
 21 and then he said we need to have a meeting with them
 22 the following morning.

23 That following morning we took Mark Fry
 24 and Jeff Watts and Jim Peters and myself and had a

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1 Q. And you can't remember what they said?

2 A. No.

3 Q. Did they admit to it at that point?

4 A. Yes.

5 Q. Oh, they did admit to it?

6 A. That night or the following morning, I
 7 can't really distinguish that time line. Jeffrey
 8 had left, he had left to go home. It's, like I
 9 said, it was late in the day, so it's difficult to
 10 distinguish whether -- what the time line was or
 11 whether they were both there still, but we did know
 12 that it was them that did it.

13 Q. Was Tom Carey involved?

14 A. No.

15 Q. So Tom Carey --

16 A. It was never brought to my attention that
 17 Tom Carey was ever involved in the smoke in the
 18 break room incident.

19 Q. Has that ever happened to any other
 20 employees, that type of, since you've been there 10
 21 years, that type of incident?

22 A. Not smoke in the break room, no.

23 Q. Well, anything to do with putting an
 24 exhaust from a car into some enclosed area?

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<p style="text-align: right;">Page 102</p> <p>1 A. Technically not enclosed, but I've seen 2 technicians -- one side of the shop is drivability 3 technicians, right across the shop from them is 4 mechanical technicians, engine mechanical 5 technicians, if they have an engine apart and they 6 put the engine back together, if they start the car 7 up after that it will smoke where antifreeze comes 8 out of the exhaust pipe, and then at a point in time 9 the guys across the shop turn around and they start 10 doing the same thing in retaliation, but it's not 11 enclosed, per say. It's not like this room.</p> <p>12 Q. Not so much like this where there was a 13 pipe being put in?</p> <p>14 A. No, no, sir.</p> <p>15 Q. So nobody has ever done this to a 16 Caucasian employee to your knowledge?</p> <p>17 A. Not this situation, no, sir.</p> <p>18 Q. And did you explore with these individuals 19 that did this whether they did it because of 20 Mr. Denton's race or color?</p> <p>21 A. It wasn't -- I don't think that had become 22 an issue to me because of the fact that the time 23 line that was a prelude to that was a situation 24 where some of the other people there had gotten</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Who else did you talk to? 2 A. Everybody in the shop. We held a shop 3 meeting about people pulling pranks on each other, 4 and it being out of control, and we needed to be 5 there and be productive and not pulling pranks. 6 There was no room in a business environment to pull 7 pranks.</p> <p>8 Q. Did you interview individual employees 9 about what occurred at the time that the hose was 10 put into the room other than those people you've 11 talked about?</p> <p>12 A. After the fact, yes.</p> <p>13 Q. Did you interview Richard Frederick as to 14 what he saw?</p> <p>15 A. I believe Rocky volunteered what he knew 16 of it.</p> <p>17 Q. Do you remember what he told you?</p> <p>18 A. Just what the situation was. Mark and 19 Jeff put a hose in the break room and Jeffrey was in 20 there because he was sick.</p> <p>21 Q. Did he tell you that they laughed at Jeff 22 and threatened to hit him when he got out, as he 23 puts in his affidavit?</p> <p>24 A. No.</p>
<p style="text-align: right;">Page 103</p> <p>1 irritated from situations that had been building up 2 over a period of time.</p> <p>3 Jeffrey would borrow money off of people, 4 borrow tools off of people, borrow cigarettes off of 5 people, and I've had complaints from several of 6 them. I've loaned Jeffrey money myself, not on the 7 frequency that, you know, that other people had told 8 me, that they had gotten tired of him doing that.</p> <p>9 He would borrow tools and break them and 10 then take them back to them. It was a combination 11 of things that did not leave me in a position to 12 believe it had anything to do with race. It had to 13 do with the fact that there was irritation between 14 the people involved.</p> <p>15 Q. So your answer is no, you did not approach 16 that subject with them as to whether this was 17 racially motivated?</p> <p>18 A. Yes, I did not.</p> <p>19 Q. Did you interview other employees as to 20 what occurred other than what you heard from Linda, 21 the two people who did it, and Jeff?</p> <p>22 A. Not at the point in time.</p> <p>23 Q. At any time?</p> <p>24 A. Afterwards, yeah.</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. Did you take notes on these interviews 2 that you had with all of these individuals regarding 3 this incident?</p> <p>4 A. No.</p> <p>5 Q. And then what occurred following the 6 meeting you had with Fry and Watts the next day 7 along with Peters, what occurred after that with 8 regard to this incident?</p> <p>9 A. Mr. Peters went to Mr. Stewart and asked 10 for his advice.</p> <p>11 Q. And did you take any action yourself or 12 did you leave that to them at that point?</p> <p>13 A. Left that to them.</p> <p>14 Q. Were you involved in it in any further 15 way?</p> <p>16 A. It was a situation that I was involved in 17 as far as their suspensions were concerned. As far 18 as them being suspended at the same time, I asked 19 that that not happen. I asked them to separate the 20 suspensions because they both do the same job in the 21 store, and so I asked that they be suspended at 22 different points in time instead of both of them 23 being suspended at the same time.</p> <p>24 Q. Did you recommend they be terminated for</p>

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1 this action?

2 A. I did not.

3 Q. Did anybody recommend they be terminated
 4 from a management standpoint?

5 A. No, reprimanded, suspension, both of them
 6 are long-term employees. Mark Fry had been with us
 7 for probably 17 years. Jeff Watts had been with us
 8 for probably 8 years. And at the point in time I
 9 pretty much left it up to what my superiors thought
 10 we should do.

11 Q. When -- you're familiar with automobiles,
 12 that whatever comes out of the exhaust -- when it
 13 comes out of the exhaust of a car, isn't that carbon
 14 monoxide that comes out of that exhaust?

15 A. Yes, there is.

16 Q. So that's the kind of gas that was going
 17 into the room where Jeffrey was?

18 A. Yes, it was.

19 Q. And do you have any knowledge of how
 20 Jeffrey became aware of the fact that this was
 21 happening?

22 A. I don't know. Number one, I still wasn't
 23 in the store at the time of the incident. When I
 24 came back and Jeffrey was in the cashier's office

1 A. Okay. What am I reviewing here on this
 2 No. 5, what sentence?

3 Q. The last couple sentences in the --

4 A. I'm a witness to other minorities?

5 Q. No, this is on the first page still, the
 6 three played practical jokes on a lot of people
 7 including him, but Denton was targeted because of
 8 his race. Okay. And what I want to ask you is
 9 what, if you know, what practical jokes did Carey,
 10 Fry, or Watts play on other people that you're aware
 11 of as reflected in this statement by Rocky, if there
 12 are any, there may not be in your opinion?

13 A. As far as other employees bringing it to
 14 my attention?

15 Q. Right.

16 A. That they had played practical jokes on
 17 them, no. Hearsay, as far as technicians saying oh,
 18 did you hear what they did to what's his face, yeah,
 19 I've heard, but.

20 Q. Okay. No complaints to you, but what have
 21 you heard, I would like to know what you've heard as
 22 to what was common knowledge that these guys were --
 23 what other kinds of practical jokes did they play?

24 A. I heard for years about the brake cleaner

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1 with Linda and she was tending to him; at that point
 2 in time I did not know how or what the situation
 3 was. Linda Honican had filled me in on what had
 4 been done and at that point that's when I became
 5 aware of what was going on.

6 Q. Did you interview Andre as to what
 7 occurred?

8 A. No, I never did. The in-depth interviews
 9 really didn't seem necessary because when we went to
 10 them I mean they admitted, they didn't deny what
 11 they had done. So it was like -- you know, it just
 12 seemed like we had to deal with a situation where we
 13 needed to deal with it, and the two people in it had
 14 already admitted to doing it and at that point it
 15 was up to us to decide what to do with them.

16 Q. And it's your testimony that prior to this
 17 time Mr. Denton had not complained to you about the
 18 fact that he was being treated differently because
 19 of his race?

20 A. No.

21 Q. And I would like you to look at the last
 22 sentence -- last two sentences on Plaintiffs'
 23 Exhibit 5. Are we on 5 or 4?

24 MR. LANGENBAHN: 5.

1 shot under the stalls and lighting it in the
 2 restroom.

3 Q. And who complained about that?

4 A. Nobody has to complain about it. They
 5 just ask about it. It happened to me at Devcon
 6 Honda.

7 Q. Happened to you?

8 A. No, no, not to me. Happened to my
 9 technicians telling me did you hear what we did to
 10 what's his face. I had one of the technicians that
 11 worked for me in my Acura store years ago, I don't
 12 think you were even there, they charged a capacitor
 13 and threw it to him and the capacitor discharged
 14 when it grounded.

15 (Off the record.)

16 MR. TAMARKIN: Let's go back on the
 17 record.

18 BY MR. TAMARKIN:

19 Q. I think we were talking about practical
 20 jokes on a lot of people, and I was asking you what
 21 other practical jokes you could remember and I think
 22 you said nothing specific, but there was around the
 23 plant you had heard, and you gave me examples then
 24 of things that happened to you when you worked for

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May 1, 2003

ROBERT BRAUTIGAM

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1 other people.
2 And I want an answer what other practical
3 jokes do you recall being around the plant or being
4 around the service shop when you worked for the
5 Joseph Group?

6 A. They talked about the brake cleaner under
7 the door and lighting it. Lithium grease was the
8 joke that just didn't stop with Rocky, I'm not sure
9 who all was involved in it, but it got to a point
10 where it was fairly creative. True master
11 technicians can be extremely creative at times.

12 (Mr. Denton entered the room.)

13 Q. Anything else you can remember that you
14 can give me specifics about, what the rumors were of
15 practical jokes?

16 A. About the hot sauce in food. Rocky
17 brought that to me.

18 Q. Did Jeffrey complain to you about that hot
19 sauce in food?

20 A. I don't recall that. I remember the bug
21 incident.

22 Q. Another time did he complain about hot
23 sauce in food?

24 A. No, I don't recall that.

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1 A. Just a period of years of -- no, there is
2 nothing out there that I can review to refresh my
3 memory as far as who specifically it happened to.
4 Q. Now, the second page of this document
5 talks about a picture of a dummy hanging from a
6 noose. Did you ever see anything like that?

7 A. I've seen the picture when it came to my
8 attention in some of the stuff that Jay's got.

9 Q. You never seen it before that?

10 A. No.

11 Q. Nobody ever showed it to you?

12 A. No.

13 Q. So the only time you've seen it is after
14 this lawsuit was filed?

15 A. The one you're speaking in reference of?

16 Q. Yes, Rocky.

17 A. Yes, that's the first time I've been aware
18 of that.

19 Q. Okay. And you never seen any other -- did
20 you ever see any nooses being hung up in the plant
21 at all?

22 A. No.

23 Q. Did you ever see any Barbie dolls being
24 hung up?

Page 111

1 Q. Hot sauce in his donuts, do you remember
2 him complaining about that?

3 A. I don't recall that. I read it earlier in
4 the depositions, but I don't recall that.

5 Q. Do you recall Jeffrey complaining to you
6 about the fact that -- you brought up about this
7 fire, you know, grease fires or something, did
8 Jeffrey complain to you about that?

9 A. No, from what I read in the deposition it
10 was a brake cleaning fire, wasn't that the one under
11 the stall door?

12 Q. Right. He never complained to you about
13 that?

14 A. I don't think he ever came to me about it.

15 Q. Did it happen to him?

16 A. Pardon?

17 Q. Did it happen to him?

18 A. I'm not sure it happened to him for a fact
19 because I wasn't in there, but I know it's happened
20 to people.

21 Q. But you don't know who?

22 A. Not right offhand, no.

23 Q. Is there something you can review that
24 would refresh your memory so that you would --

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Page 113

1 A. No.

2 Q. With wires on their necks?

3 A. No.

4 Q. How about did you ever see any Barbie
5 dolls being burned?

6 A. No.

7 Q. And did Mr. Denton ever complain to you
8 about that situation?

9 A. I believe that Jeffrey did say something
10 to me about the doll incident, but I didn't see it
11 happen. I believe Jeffrey did tell me about it and
12 I had gone out and I talked to Jeffrey, I was
13 talking to him about work or something at the point
14 in time, but I believe Jeffrey did say something
15 about that to me.

16 Q. The doll incident?

17 A. The doll incident.

18 Q. Okay. Was this before the situation where
19 the -- the carbon monoxide?

20 A. I don't believe it was. I believe it was
21 after that.

22 Q. What did he tell you, as best you can
23 recollect what did Jeff say?

24 A. He told me about the doll incident. I